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SENSITIVE

DEPARTMENT FOR G/TIP, G-ACBlank, INL, DRL, PRM, EAP/ANP, EAP/RSP

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SUBJ: TRAFFICKING IN PERSONS - NEW ZEALAND 2009

REF: 08 STATE 132759

¶1. (SBU) Following are responses for the Trafficking in Persons (TIP) report for New Zealand, keyed to reftel:

Begin Responses  
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¶23. THE COUNTRY'S TIP SITUATION:

-- A. What is (are) the source(s) of available Information on trafficking in persons? What plans are in place (if any) to undertake further documentation of human trafficking? How reliable are these sources?

RESPONSE:

Information relating to trafficking in New Zealand is derived from the government through: the Department of Labour, which has responsibility for immigration, customs and border security, and which is the country's lead agency in preventing and combating trafficking; the Ministry of Foreign Affairs and Trade; the Ministry of Justice; the New Zealand Police; the Department of Prime Minister and Cabinet; the Ministry of Health; the Ministry of Social Development; and the Ministry of Women's Affairs.

Trafficking information is also obtained from New Zealand media reports and non-governmental organizations (NGOs) such as ECPAT (Eliminate Child prostitution, Pornography And Trafficking), Stop-Demand, the Salvation Army, the Mangere East Family Services Center (MEFSC), Save the Children, and Iosis Family Solutions.

Post considers information from the government, media and NGOs to be reliable although incomplete in some areas.

There is no credible statistical information or survey data relating to the nature and amount of transnational and domestic trafficking in New Zealand. However, all agree the incidence rate is not high.

Police inspections of brothels occasionally identify illegal sex workers, but none has been identified as a trafficking victim in recent times. The last confirmed case and prosecution for transnational trafficking occurred in 2002.

The only attempt to quantify the number of underage prostitutes in New Zealand was conducted by the Prostitution Law Review Committee (PLRC), which is reported in the response to "23-B" below. However, the PLRC estimate of underage prostitution is far from exact as it relied on studies using anecdotal information from interviewees and because the study was not conducted nationwide (it only examined larger communities).

Without statistical data, it is difficult to accurately determine the number of underage prostitutes. According to the New Zealand Prostitutes Collective (NZPC) and Stop Demand, many young people under 18 who frequent red light districts are assumed to be involved in sex work, but only a few of the youths are actually engaged in prostitution.

-- B. Is the country a country of origin, transit, and/or destination for internationally trafficked men, women, or children? Does trafficking occur within the country's borders? If so, does internal trafficking occur in territory outside of the government's control (e.g. in a civil war situation)? To where are people trafficked? For what purposes are they trafficked? Provide, where possible, numbers or estimates for each group of trafficking victims. Have there been any changes in the TIP situation since the last TIP Report (e.g. changes in destinations)?

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RESPONSE:

There is no objective evidence (victim interviews, arrests, convictions, etc.) indicating that New Zealand is a country of origin or transit in transnational trafficking, though New Zealand's legal sex industry likely makes it a potential country of destination -- primarily for women of Asian ethnicity engaged in the legal sex industry. This suspicion is based on the existence of non-resident aliens (usually Asian women) working illegally in New Zealand's legal sex industry. However, it is difficult for government officials and NGOs to prove such women are trafficking victims because the sex workers seek to avoid detection (in order to remain in New Zealand) or do not consider themselves victims.

The number of domestic trafficking victims is also small (estimated to be less than 100), and consists of underage sex workers, and illegal migrants working in the agricultural sector. As with potential transnational trafficking victims in the sex industry, domestic trafficking victims also seek to avoid detection or do not consider themselves victims. Therefore, making an accurate estimate of the number of victims is difficult.

NGOs involved in addressing underage prostitution agree that there are no reliable data concerning the number of victims in New Zealand. However, there is NGO consensus that the number is relatively small -- primarily young people engaging in prostitution on an opportunistic and intermittent basis, and working in the street more so than in brothels.

Another source of information concerning prostitution is the Prostitution Law Review Committee (PLRC), which was established with the adoption of the Prostitution Reform Act (PRA) in 2003. The PLRC was required by the legislation to issue a five-year report on the status and effectiveness of the PRA, which was published in May, 2008. In preparing its report, the PLRC relied on information provided by the government, the Christchurch School of Medicine, the Victoria University's Crime and Justice Research Center, the New Zealand Prostitutes Collective, and other NGOs.

With respect to underage prostitution, the PLRC reported that:

-- There were 2,332 sex workers within the major centers of prostitution in NZ, namely Auckland, Wellington, Christchurch, Hawke's Bay and Nelson. Of those, the PLRC estimated that 1.3

percent (approximately 30) were under 18 years of age.

-- Underage prostitutes work primarily in the street sector (as opposed to brothels), which makes them more difficult to detect and more likely to be victims of abuse and unhealthy working conditions.

There have not been changes in the TIP situation since the last TIP report.

-- C. What kind of conditions are the victims trafficked into?

RESPONSE:

With respect to women of Asian ethnicity illegally engaging in the legal prostitution industry and working in licensed brothels (see response to "23-D" below), the safety and health conditions would be similar to that of legal sex workers, though trafficking victims might be compelled or intimidated to participate because of debts incurred abroad or as a condition of receiving assistance in immigrating into New Zealand. As noted in "23-A" above, there have been no adult trafficking victims discovered within the New Zealand sex industry since 2002.

Concerning underage prostitutes, these young women are generally working in the street and outside of legal brothels. They are,

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therefore, more vulnerable to abuse and are more likely to be working in unhealthy and dangerous conditions. Illegal migrants working in the agricultural sector are similarly vulnerable to abuse and poor working conditions.

In all cases (underage prostitutes, migrant sex workers and migrant farm workers), such potential trafficking victims are unlikely to report intimidation, abuse or working conditions for fear of detection, loss of income, and possible deportation.

-- D. Vulnerability to TIP: Are certain groups of persons more at risk of being trafficked (e.g. women and children, boys versus girls, certain ethnic groups, refugees, IDPs, etc.)?

RESPONSE:

Women of Asian ethnicity have the greatest risk of being trafficked into New Zealand, primarily for prostitution (though, as mentioned previously, none have been detected since 2002). This assessment is based on the nationality of foreign women who are found to be engaging illegally in prostitution (i.e., while in New Zealand on temporary residence status). The women illegally engaging in prostitution often originate from China, Taiwan, Hong Kong and Thailand.

With regard to underage prostitution, the persons most at risk are young New Zealand women (under 18 years old) from homes in which there were problems with child abuse, domestic violence, alcoholism and dysfunctional families.

Victims of transnational trafficking in the agricultural sector are most likely low-skilled men and women from Asia and Pacific Island Countries who have entered the country illegally.

-- E. Traffickers and Their Methods: Who are the traffickers/exploiters? Are they independent business people? Small or family-based crime groups? Large international organized crime syndicates? What methods are used to approach victims? For example, are they offered lucrative jobs, sold by their families, or approached by friends of friends? What methods are used to move the victims (e.g., are false documents being used?). Are employment, travel, and tourism agencies or marriage brokers involved with or fronting for traffickers or crime groups to traffic individuals?

RESPONSE:

There have been no proven cases of transnational trafficking since 2002.

With respect to underage prostitution, the government and NGOs suggest that it is opportunistic and street based.

According to the director of the Mangere East Family Services Center (MEFSC) in Auckland, youth who engage in prostitution do so on an episodic basis rather than full-time, and only a few are pimped by gangs. Almost all underage prostitutes, according to MEFSC, are street workers rather than operating within a brothel (where detection is more likely). The young people engage in prostitution in order to obtain money for needed expenses and then cease the activity until the need arises again. They do not view themselves as prostitutes. MEFSC claims that detecting underage sex workers is made more difficult by the popularity of cellular phone texting. Street-based sex workers use texting to arrange meetings with clients without making contact in public areas (at least after the initial contact).

ECPAT agrees with the MEFSC assessment concerning the number and nature of underage prostitution in New Zealand. Almost all of the underage prostitutes work in the street on a temporary and opportunistic basis, according to ECPAT, though a few are reported

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to be trafficked among gangs.

Iosis Family Solutions (Iosis) in Auckland, which has worked with underage sex workers for several years, estimated that number of "hard core" underage prostitutes in Auckland is low, though the number of young girls who occasionally engage in prostitution on an opportunistic basis is larger. According to Iosis, girls in the latter group do not consider themselves to be prostitutes, as they engage in such activity only on holidays or whenever they desire some extra money.

The opinions of the NGOs cited above are echoed by the PLRC's 2008 report described in the response to "23-B."

124. SETTING THE SCENE FOR THE GOVERNMENT'S ANTI-TIP EFFORTS:

-- A. Does the government acknowledge that trafficking is a problem in the country? If not, why not?

RESPONSE:

The government acknowledges that transnational trafficking is a potential problem, but it has not discovered a transnational trafficking victim since New Zealand's anti-trafficking law became effective in 2002. Nevertheless, New Zealand has used reasonable efforts to detect trafficking victims who may enter the country. The government credits its lack of a transnational trafficking problem largely to the country's geography. As a remote island nation, New Zealand has the advantage of not sharing a common border with another country. Consequently, anti-trafficking resources can be targeted on the country's limited number of air and sea entry locations.

As stated in "23-B" above, the government's definition of trafficking does not include underage prostitution which, it admits, is a limited problem. The government works to prevent and prosecute such exploitation under other laws dealing with the abuse and exploitation of children, and with underage prostitution.

-- B. Which government agencies are involved in anti-trafficking efforts and which agency, if any, has the lead?

RESPONSE:

The Department of Labour-Immigration has the lead role in New Zealand's anti-trafficking efforts and also chairs the government's Interagency Working Group (IWG) on People Trafficking discussed in "24-D" below. The Department of Labour-Immigration, the New Zealand Police, the New Zealand Customs Service, and the Ministry of Justice have responsibility for enforcement and prosecution of the laws governing trafficking. In addition, trafficking issues are covered

by the Ministry of Foreign Affairs and Trade, the Ministry of Women's Affairs and the Ministry of Social Development. The independent Human Rights Commission also participates to a limited degree.

With respect to the geographical jurisdiction of government agencies engaged in anti-trafficking efforts, New Zealand Customs and the Department of Labour-Immigration concentrate on the territorial sea and on border entry points. The New Zealand Defence Forces monitor international waters and New Zealand's Exclusive Economic Zone for vessels bound for New Zealand.

-- C. What are the limitations on the government's ability to address this problem in practice? For example, is funding for police or other institutions inadequate? Is overall corruption a problem? Does the government lack the resources to aid victims?

RESPONSE:

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The government is not constrained by fiscal or other resources in addressing human trafficking issues. Instead, the difficulty for New Zealand is balancing its desire to eliminate all forms of trafficking (which is a relatively small problem in New Zealand) against the competing need to address other significant social problems that affect a much larger portion of the population, such as domestic violence, child abuse, gang violence, drug abuse, and the disproportionate number of Maoris on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households.

Overall corruption was not a problem. New Zealand has a number of legislative, administrative, and enforcement structures in place to prevent and prosecute bribery and corruption, to include the Police Financial Intelligence Unit; the Serious Fraud Office; the Office of the Ombudsmen; the Inland Revenue Department; the Office of the Controller and Auditor-General; the Department of Internal Affairs; and the State Services Commission. There are other agencies as well, such as the Ministry of Justice, which lead policy initiatives against corruption and bribery.

New Zealand is perceived to be one of the world's three least corrupt countries (along with Denmark and Sweden) according to the latest annual survey by Transparency International. The index defines corruption as the abuse of public office for private gain and measures the degree to which corruption is perceived to exist among a country's public officials and politicians.

The government provides and funds an extensive network of victim support and social services for victims of crimes, to include victims of trafficking. That network is sufficient to assist victims of trafficking and is explained in detail within the responses that follow.

-- D. To what extent does the government systematically monitor its anti-trafficking efforts (on all fronts --prosecution, victim protection, and prevention) and periodically make available, publicly or privately and directly or through regional/international organizations, its assessments of these anti-trafficking efforts?

RESPONSE:

In 2008, the government adopted a Plan of Action to combat trafficking, and the government's implementation efforts continue. The Plan of Action was developed and implemented by the IWG, which is comprised of the ministries and departments that are engaged in anti-trafficking efforts. In addition, the Plan of Action process solicited input from NGOs and civil society groups. The purpose of the Plan of Action is to review, refine and enhance the government's anti-trafficking strategies and framework, including its monitoring and evaluation strategies. Another goal is to uncover and deter trafficking by creating public awareness of trafficking issues.

With respect to the domestic exploitation of underage prostitutes, the Prostitution Reform Act (PRA) established the Prostitution Law

Review Committee (PLRC) to review the operation of the PRA and its impact on the commercial sex industry. The PLRC published its 5-year report in 2008 and will report again in 2018.

The government's efforts to prevent and address trafficking are also reported within the Bali Process, at relevant UN meetings (such as the UNHCR and the IGC), to regional and international organizations (such as the International Organization for Migration and the Pacific Immigration Directors Conference), and on a government public access web site.

125. INVESTIGATION AND PROSECUTION OF TRAFFICKERS:

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For questions A-D, posts should highlight in particular whether or not the country has enacted any new legislation since the last TIP report.

-- A. Existing Laws against TIP: Does the country have a law or laws specifically prohibiting trafficking in persons -- both for sexual exploitation and labor? If so, please specifically cite the name of the law(s) and its date of enactment and provide the exact language [actual copies preferable] of the TIP provisions. Please provide a full inventory of trafficking laws, including non-criminal statutes that allow for civil penalties against alleged trafficking crimes (e.g., civil forfeiture laws and laws against illegal debt). Does the law(s) cover both internal and transnational forms of trafficking? If not, under what other laws can traffickers be prosecuted? For example, are there laws against slavery or the exploitation of prostitution by means of force, fraud, or coercion? Are these other laws being used in trafficking cases?

RESPONSE:

New Zealand has adopted the definition of trafficking set out in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. That definition only covers transnational forms of trafficking. Other than this notable difference with U.S. law, the New Zealand anti-trafficking legislation is comprehensive and covers all aspects of transnational trafficking, including reception, concealment or harboring of persons.

Measures to punish forms of domestic trafficking not addressed by the laws punishing transnational trafficking are included under other New Zealand laws. These domestic trafficking laws (though the word "trafficking" is not used) deal with crimes involving abduction, assault, kidnapping, rape, engaging or coercing underage prostitutes, and exploitation of laborers within New Zealand borders.

The key anti-trafficking legislative provisions (dealing with transnational trafficking) are found in Part 5 of the Crimes Act of 11961. The relevant provisions are sections 98 (dealing in slaves), 98A (participation in organized criminal group), 98B (definitions), 98C (smuggling migrants), 98D (trafficking in persons), 98E (aggravating factors), and 98F (Attorney-General's consent required).

Section 98 of the Crimes Act of 1961 makes dealing in slavery an offense. Sections 98A, 98C and 98D are offenses for which a person may be extradited from a country with which New Zealand has an extradition treaty.

In 2005, the government added section 98AA to comply with New Zealand's obligations under the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography. It establishes an offense for dealing in people less than 18 years for sexual exploitation or engagement in forced labor.

Section 16 of the Prostitution Reform Act of 2003 prohibits inducing or compelling persons to provide commercial sexual services or earnings from prostitution.



In February 2002, New Zealand passed legislation criminalizing human smuggling and trafficking. The Transnational Organized Crime Bill was adopted on June 17, 2002 as an amendment to the Crimes, Extradition, Immigration, Passports and Mutual Assistance in Criminal Matters Amendment Acts.

In addition, the Crimes Act prohibits sexual conduct with young people under 18 both within and outside NZ (section 144A), and criminalizes the organization or promotion of child sex tours (section 144C).

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The government has proposed a civil forfeiture law, called the Criminal Proceeds (Recovery) Bill, that would authorize the government to seize instruments used in, or the proceeds derived from, all of the crimes listed above. The bill is currently awaiting its second reading before Parliament.

-- B. Punishment of Sex Trafficking Offenses: What are the prescribed and imposed penalties for trafficking people for sexual exploitation?

RESPONSE:

The penalty for offenses relating to all types of trafficking is contained in section 98D of the Crimes Act of 1961 and imposes a term of imprisonment not exceeding 20 years, a fine not exceeding USD 250,000 (NZD 500,000) or both.

No penalties were imposed under this law within the reporting period.

-- C. Punishment of Labor Trafficking Offenses: What are the prescribed and imposed penalties for trafficking for labor exploitation, such as forced or bonded labor? If your country is a source country for labor migrants, do the government's laws provide for criminal punishment -- i.e. jail time -- for labor recruiters who engage in recruitment of workers using knowingly fraudulent or deceptive offers with the purpose of subjecting workers to trafficking in the destination country? If your country is a destination for labor migrants, are there laws punishing employers or labor agents who confiscate workers' passports or travel documents for the purpose of trafficking, switch contracts without the worker's consent as a means to keep the worker in a state of service, or withhold payment of salaries as means of keeping the worker in a state of service?

RESPONSE:

In 2002, the government added sections 98A-98F into the Crimes Act in order to implement of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Convention against Transnational Organized Crime.

Section 98C prohibits the smuggling of unauthorized migrants into New Zealand or any other country. Section 98D prohibits the trafficking of persons into New Zealand or any other country.

In 2005, the government added section 98AA to comply with New Zealand's obligations under the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography. It prohibits the use of people less than 18 years in forced labor. The scope of 98AA is broad and covers not only the selling, bartering, transferring, hiring or renting of a person under 18 years of age, but also prohibits:

-- engaging or permitting a person under 18 years to be engaged in forced labor;

-- detaining, confining, receiving, transporting, removing or importing a person under 18 years for trafficking purposes; or

-- inducing a person who is under 18 years (or the guardian or caregiver of such a person) to sell, rent, or give himself or herself for any of the specified purposes.

Violations of section 98 carry a maximum penalty of 20 years imprisonment and/or a fine not exceeding USD 250,000 (NZD 500,000), with the exception of 98AA, which carries a maximum penalty of 14 years imprisonment.

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The Immigration Act of 1987 provides that an employer must not either knowingly, or without reasonable excuse, employ a non-citizen who is not entitled to work in New Zealand (section 39). Section 39A prohibits employer exploitation of illegal migrants within New Zealand and carries a maximum penalty of seven years imprisonment and/or a fine of USD 50,000 (NZD 100,000). Among other things, the Immigration Act of 1987 makes it a crime to:

-- exploit persons not legally entitled to work in New Zealand by failing to comply with minimum employment standards regarding wages, holiday pay or wage deductions (reinforces existing law in section 39A of the Immigration Act of 1987, above); and

-- prevent a person from obtaining their legal entitlements, or force a person to leave his/her employment or country through such means as confiscating passports, tickets or travel documents, preventing outside communication or keeping him/her confined to the workplace.

-- D. What are the prescribed penalties for rape or forcible sexual assault? (NOTE: This is necessary to evaluate a foreign government's compliance with TVPA Minimum Standard 2, which reads: "For the knowing commission of any act of sex trafficking . . . the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault (rape)." END NOTE)

RESPONSE:

Sexual violation (i.e., rape or sexual contact) of an adult is punishable by a term of imprisonment not to exceed 20 years and differs from the penalties for trafficking in the following respects:

-- Unlike trafficking convictions, it does not carry a potential monetary fine.

-- The minimum sentence for a sexual violation is 8 years. There is no minimum sentence for trafficking offenses.

-- A person who has been convicted of sexual violation may be detained without bail ("preventive detention") if the offender has a history of sexual offenses or poses a risk to the community. A person who is convicted of a trafficking offense is not eligible to be placed in preventive detention.

Sexual violation of a child carries a maximum potential penalty of ten years if the child is under 16 years of age; and fourteen years if the child is under 12 years of age.

-- E. Law Enforcement Statistics: Did the government prosecute any cases against human trafficking offenders during the reporting period? If so, provide numbers of investigations, prosecutions, convictions, and sentences imposed, including details on plea bargains and fines, if relevant and available. Please note the number of convicted traffickers who received suspended sentences and the number who received only a fine as punishment. Please indicate which laws were used to investigate, prosecute, convict, and sentence traffickers. Also, if possible, please disaggregate numbers of cases by type of TIP (labor vs. commercial sexual exploitation) and victims (children under 18 years of age vs. adults). If in a labor source country, did the government criminally prosecute labor recruiters who recruit workers using knowingly fraudulent or deceptive offers or by imposing fees or commissions for the purpose of subjecting the worker to debt bondage? Did the government in a labor destination country criminally prosecute employers or labor agents who confiscate workers' passports/travel documents for the purpose of trafficking,



switch contracts or terms of employment without the worker's consent to keep workers in a state of service, use physical or sexual abuse

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or the threat of such abuse to keep workers in a state of service, or withhold payment of salaries as a means to keep workers in a state of service? What were the actual punishments imposed on persons convicted of these offenses? Are the traffickers serving the time sentenced? If not, why not?

RESPONSE:

There have been no prosecutions under New Zealand's anti-trafficking laws since they were instituted in 2002, as no evidence of transnational trafficking has been found. However, the government has prosecuted and convicted individuals under the Prostitution Reform Act (PRA) for using children in prostitution. In addition, the government conducted compliance visits within brothels to check for underage sex workers and foreign nationals working as prostitutes (both of which are prohibited under the PRA).

For the period from January 1, 2008 through December 31, 2008, the government made 21 compliance visits to sex industry premises. These included brothels, homes and any premises associated with the sex industry. During those visits authorities found nine foreign nationals working illegally in the sex industry. Of those, the government revoked one entry permit (the holder then departed NZ or was deported) and three persons without entry permits either departed NZ or were deported. Three had temporary permits revoked but are still unlawfully in New Zealand. The two remaining holders of entry permits were allowed to remain in New Zealand on humanitarian grounds or given a second chance.

Since the PRA came into force in June 2003 and until March 2008 (the most recent data available), 99 charges have been filed under the various PRA provisions relating to the illegal operation of brothels. Ninety-two of those charges (which involved multiple charges for one offender) related to the illegal use of persons under 18 years of age in prostitution.

Prosecutions of brothel owners/operators since adoption of the PRA in 2003 have risen over the years. In 2004 (the first full year under the PRA), there were 36 prosecutions. This reflected the initial Police effort to enforce compliance under the new legislation. Prosecutions then tapered to nine in 2005, but increased every subsequent year to 13 in 2006, and 34 in the 2007/2008 reporting period. The number of prosecutions during the 2008/2009 reporting period was not publicly available by the deadline for this report.

Thirty-six of the 99 charges resulted in convictions; 19 charges are still active. The remaining 44 charges were either withdrawn, the accused was acquitted or the charges were otherwise not proven. Of the 36 offenders convicted, 11 were placed in custody, 20 were sentenced to community work, two were placed under supervision, four were given monetary fines, and one was discharged (an offender may have received more than one type of penalty).

In July a Christchurch brothel owner was charged with exploiting underage girls in prostitution. The two girls, ages 16 and 17, worked at the brothel for more than a year. This was the first occasion that prosecutors applied the law banning sexual slavery, adopted in 2006 in accordance with the United Nations Convention on the Rights of the Child. The case remained pending at the end of the reporting period.

In November authorities charged a New Plymouth brothel owner with several offenses relating to his employment of a 15-year-old girl as a prostitute during a six-month period in 2005. The case remained pending at the end of the reporting period.

In December the Tauranga District Court sentenced a 19-year-old Bay of Plenty man to 27 months' imprisonment for assisting and receiving earnings from his 15-year-old girlfriend, who engaged in

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prostitution in 2006 and 2007.

With respect to investigating underage prostitution, Police may legally ask any person for identity and age, but there is no requirement that persons carry proof of identity or age in New Zealand. Police always have the option to take an unaccompanied child into custody for questioning if Police determine that it is necessary for the physical or mental health of the child or if the child is impaired. Since many underage prostitutes do not see themselves as victims and do not cooperate with Police, Police may find it difficult to indict violators who use underage prostitutes. Despite these difficulties, Police do not consider them to be undue impediments to their ability to identify underage sex workers. In fact, according to Police, the PRA has allowed them to have greater contact with local prostitutes and more likely to hear about underage sex workers or anyone who is being coerced into prostitution.

The Police are able to enter a brothel and make a compliance investigation after obtaining a warrant to do so. In order to obtain a warrant, Police must have "grounds to suspect" that a violation is occurring or has occurred, which is a lower standard than that governing Police entry into other types of businesses (where Police must have "grounds to believe"). The rationale is to provide Police with greater powers of access to prevent harm to sex workers. However, if a violation of immigration law is suspected, a police officer (who is also an immigration officer under the PRA) can enter a brothel without a warrant. According to the Police, the PRA has not limited their ability to investigate possible illegal activities associated with brothels when Police have found it necessary to do so.

Even though New Zealand's anti-trafficking law only applies to transnational trafficking, the government employs an extensive statutory regime to protect workers from domestic trafficking or exploitation, and from working in unsafe or unhealthy work environments. These protections apply to all workers employed in New Zealand, whether or not they are legally entitled to be in New Zealand.

The overall framework for employment relations is contained in the Employment Relations Act of 2000, which sets provisions for bargaining, freedom of association, bargaining, personal grievance rights and procedures for employment problem resolution. The Health and Safety in Employment Act 1992 establishes the framework for occupational safety and health in workplaces.

There were 264 horticulture and viticulture compliance inspections made during 2008. This includes Regional Seasonal Employer (RSE) compliance, educational and audit inspections. From 2005 to present (the government has not isolated the figures for 2008), the government has brought 263 charges against labor recruiters: 257 relating to fraudulent and deceptive offers; and six relating to violations of the Immigration Act.

-- F. Does the government provide any specialized training for government officials in how to recognize, investigate, and prosecute instances of trafficking? Specify whether NGOs, international organizations, and/or the USG provide specialized training for host government officials.

RESPONSE:

Department of Labour-Immigration onshore operational staff who may be in a position to detect suspected trafficking activity receive training on identifying indicators. Additional operational training on identifying indicators of trafficking and trafficking victim interviewing techniques was delivered to Immigration compliance officers in the past year. Information on trafficking indicators has also been incorporated into briefings for these officers before

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each enforcement operation.

Further, the profile developed for Operation Spotlight (see "27-B" below), which provides a useful tool at the border to identify potential sex workers before they enter the country, has been incorporated into training for border officers.

The Department of Labour-Immigration plans to implement other training/awareness measures to ensure that a wider number of staff are aware of and understand the dimensions of human trafficking. These measures include a trafficking intranet site, presentations by managers, and internally circulating information on trafficking indicators.

Additional training to be delivered to Immigration Officers as part of the Plan of Action includes extending training to all frontline onshore and offshore staff on trafficking indicators in visa applications. The Plan of Action also includes an effort to better coordinate training programs between agencies to ensure a consistent approach to suspected trafficking crimes.

In 2008, the New Zealand Police developed training on human trafficking offences as part of the Criminal Investigation Branch (CIB) training program. This training will be implemented in 2009 and will be provided to all new detectives as they pass through CIB training. The training program will be complemented by an intranet site which will be available to all Police staff with some material also being included on the New Zealand Police public website. The Police have also sent officers to Australia for training in this area with the Australian Federal Police.

The New Zealand Customs Service has a formal Memorandum of Understanding with the New Zealand Police that covers information sharing, joint operations and joint training opportunities. The Department of Labour-Immigration has a similar arrangement with the New Zealand Police.

--G. Does the government cooperate with other governments in the investigation and prosecution of trafficking cases? If possible, provide the number of cooperative international investigations on trafficking during the reporting period.

RESPONSE:

The Mutual Assistance in Criminal Matters Act of 1992 allows New Zealand to co-operate with other governments in the investigation and prosecution of criminal activities, including trafficking, without the need for bilateral mutual legal assistance treaties. The Act sets out the extent to which New Zealand is able to request or provide assistance, to include the gathering of evidence, identifying and locating persons, and executing warrants. The New Zealand Police also provide informal assistance to their counterparts around the world through Interpol channels.

New Zealand has not made or received any requests relating to trafficking under this act to date.

-- H. Does the government extradite persons who are charged with trafficking in other countries? If so, please provide the number of traffickers extradited during the reporting period, and the number of trafficking extraditions pending. In particular, please report on any pending or concluded extraditions of trafficking offenders to the United States.

RESPONSE:

Trafficking is an extraditable offence under New Zealand's Extradition Act of 1999 which allows New Zealand to extradite offenders. To date, New Zealand has never received a request to extradite or otherwise surrender a person charged with a trafficking

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offense.

New Zealand's Extradition Act of 1999 reserves the government's right to refuse extradition of a New Zealand national. Despite this, the government has not, as a matter of general practice, refused to extradite New Zealand nationals.

-- I. Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level? If so, please explain in detail.

RESPONSE:

There is no evidence of government involvement in or tolerance of trafficking.

-- J. If government officials are involved in trafficking, what steps has the government taken to end such participation? Please indicate the number of government officials investigated and prosecuted for involvement in trafficking or trafficking-related corruption during the reporting period. Have any been convicted? What sentence(s) was imposed? Please specify if officials received suspended sentences, or were given a fine, fired, or reassigned to another position within the government as punishment. Please indicate the number of convicted officials that received suspended sentences or received only a fine as punishment.

RESPONSE:

Not applicable.

-- K. Is prostitution legalized or decriminalized? Specifically, are the activities of the prostitute criminalized? Are the activities of the brothel owner/operator, clients, pimps, and enforcers criminalized? Are these laws enforced? If prostitution is legal and regulated, what is the legal minimum age for this activity? Note that in countries with federalist systems, prostitution laws may be under state or local jurisdiction and may differ among jurisdictions.

RESPONSE:

Prostitution in New Zealand was decriminalized by the Prostitution Reform Act (PRA) of 2003, which placed the sex industry under a regulatory regime. That regulatory structure is enforced.

The PRA prohibits persons under 18 years of age and foreign nationals from working in the commercial sex industry. Prostitutes under 18 are not prosecuted (they are considered victims), but other parties involved in the transaction may be prosecuted -- e.g., for facilitating, receiving payment for, or receiving sexual services from, a person under 18. Additional charges may result where there is a lack of consent or a person is induced or compelled to provide commercial sexual services or earnings.

When a client engages a person under the age of 18 to provide sexual services, the defendant has the burden of proving that he/she took adequate steps to ascertain whether the person was 18 years or older.

Law enforcement personnel, including immigration officers, inspect brothels to ensure that persons working in the industry are not foreign nationals in New Zealand on temporary permits. In the course of carrying out these inspections, officers screen for victims of trafficking, to include underage sex workers.

The PRA prohibits the granting of an immigration permit if the person has provided or intends to provide commercial sexual services; has acted or intends to act as an operator of a business of prostitution; or has invested in or intends investing in a

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business of prostitution. It is also a condition of every temporary immigration permit or limited purpose permit that the holder may not provide commercial sexual services, act as an operator of a New Zealand business of prostitution or invest in a New Zealand business of prostitution.

The PRA repealed the offenses of brothel keeping and living off the proceeds of prostitution. However, brothel owners/operators may be charged with the following offenses under the PRA: using persons under 18 years of age; providing sexual services where there is a

lack of consent; inducing or compelling a person to provide commercial sexual services or earnings; or failing to meet obligations under the Health and Safety in Employment Act of 1992 (including but not limited to safe sex practices).

If a brothel owner/operator uses a person under 18 years of age, he or she is also subject to penalties under the Crimes Act for sexual exploitation of a person under 18.

Various provisions of the Crimes Act might also apply where: there is violence, or threats of violence or damage to property; or a person abducts or kidnaps a person with the intent to have sexual contact.

-- L. For countries that contribute troops to international peacekeeping efforts, please indicate whether the government vigorously investigated, prosecuted, convicted and sentenced nationals of the country deployed abroad as part of a peacekeeping or other similar mission who engaged in or facilitated severe forms of trafficking or who exploited victims of such trafficking.

RESPONSE:

The government has no evidence to suggest, nor has Post obtained any reports to indicate, that NZDF personnel deployed in Timor-Leste, Afghanistan or similar missions have been involved in trafficking or related activities during the reporting period.

-- M. If the country has an identified problem of child sex tourists coming to the country, what are the countries of origin for sex tourists? How many foreign pedophiles did the government prosecute or deport/extradite to their country of origin? If your host country's nationals are perpetrators of child sex tourism, do the country's child sexual abuse laws have extraterritorial coverage (similar to the U.S. PROTECT Act) to allow the prosecution of suspected sex tourists for crimes committed abroad? If so, how many of the country's nationals were prosecuted and/or convicted during the reporting period under the extraterritorial provision(s) for traveling to other countries to engage in child sex tourism?

RESPONSE:

There have been no reported problems with child sex tourists or foreign pedophiles entering New Zealand. None have been deported or extradited.

With respect to New Zealand citizens engaging in child sex tourism abroad, New Zealand has extraterritorial coverage under section 144A of the Crimes Act of 1961 in that situation, and the government has cooperated in the prosecution of New Zealand citizens who have engaged in child sex tourism overseas. It is also an offense under section 144C of the Crimes Act of 1961 to organize or promote child sex tours.

Since 2002, there have been two persons charged within New Zealand for the crime of sexual conduct with a child that occurred outside New Zealand. One person was convicted (in 2007) and sentenced to a term of 820 days imprisonment. The charge against the other person was withdrawn.

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Both ECPAT and Stop Demand (an anti-prostitution NGO) have expressed concern that the government has not directed sufficient resources to enforce its sex tourism law. ECPAT pointed out that New Zealand has only one officer assigned in Bangkok to cover the entire Asia, Southeast Asia and Pacific Island region with respect to trafficking and sex tourism. At the same time, ECPAT acknowledged that New Zealand, being a relatively small country with a relatively small trafficking problem, has difficulty justifying additional resources for that purpose.

The government features information on its extraterritorial child sex tourism legislation on the government travel advisory website.

126. PROTECTION AND ASSISTANCE TO VICTIMS:

-- A. What kind of protection is the government able under existing law to provide for victims and witnesses? Does it provide these protections in practice?

RESPONSE:

Please see the responses to "26-B" and "26-C" below.

-- B. Does the country have victim care facilities (shelters or drop-in centers) which are accessible to trafficking victims? Do foreign victims have the same access to care as domestic trafficking victims? Where are child victims placed (e.g., in shelters, foster care, or juvenile justice detention centers)? Does the country have specialized care for adults in addition to children? Does the country have specialized care for male victims as well as female? Does the country have specialized facilities dedicated to helping victims of trafficking? Are these facilities operated by the government or by NGOs? What is the funding source of these facilities? Please estimate the amount the government spent (in U.S. dollar equivalent) on these specialized facilities dedicated to helping trafficking victims during the reporting period.

RESPONSE:

The New Zealand Council of Victim Support Groups provides 24-hour emotional support, personal advocacy and information to all people affected by crime and trauma throughout New Zealand, regardless of gender, age or immigration status. Victims with special needs, such as emotional support or counseling, are referred by relevant authorities to a specialist provider of care services.

The New Zealand government is unaware of any situation during the reporting period when a person accessing these services or facilities claimed to be a victim of trafficking.

-- C. Does the government provide trafficking victims with access to legal, medical and psychological services? If so, please specify the kind of assistance provided. Does the government provide funding or other forms of support to foreign or domestic NGOs and/or international organizations for providing these services to trafficking victims? Please explain and provide any funding amounts in U.S. dollar equivalent. If assistance provided was in-kind, please specify exact assistance. Please specify if funding for assistance comes from a federal budget or from regional or local governments.

RESPONSE:

All crime victims in New Zealand, including trafficking victims, are protected under the New Zealand's Victim's Rights Act of 2002 regardless of their immigration status. Under this act, the New Zealand Police would provide any suspected trafficking victim with his or her immediate welfare needs, such as food and shelter. In

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addition, a victim would be informed of services to which he or she is entitled, such as physical and mental health services, counseling, legal services, and access to legal remedies, including restitution (see the response to "27-J" below).

For ongoing care and case management, the victim's support would be coordinated by the Ministry of Social Development - Family and Community Services. This would include legal, medical and psychological services provided by government agencies in conjunction with various NGOs.

The Ministry of Social Development's operational arm, Child Youth and Family Services, would provide any children who are identified as victims of trafficking with the appropriate care and support services. This would include immediate needs such as supervision and housing, as well as all other welfare needs.

The IWG is considering an approach within the Plan of Action to make

trafficking victims a separate formal category of victim, with an immigration status. This approach would provide trafficking victims with a greater range of support services over the longer term. The IWG states that victim assistance will continue to be a regular agenda item at IWG meetings and consideration of measures that extend or enhance victim support will be on-going.

New Zealand Aid for International Development (NZAID) is the government agency responsible for managing New Zealand's international development assistance. In line with its human rights policy, NZAID supports activities to combat human trafficking through its contributions to the following entities (all funds from the NZ federal budget):

-- USD 100,000 (NZD 200,000) to the Asia Pacific Forum of National Human Rights Institutions annually.

-- USD 200,000 (NZD 400,000) to the UN Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region (participating countries are: Cambodia, China, Lao, Myanmar, Thailand, and Vietnam).

The government also contributed or dedicated USD 14.9 million (NZD 29.8 million) for the period 2007 to 2009 to organizations which, as a part of their mandate, work to detect or prevent trafficking or provide assistance to trafficking victims. Those organizations include UNICEF, UNFPA, OHCHR AND UNIFEM.

In December, the government facilitated the voluntary repatriation of nine citizens of India who had been lured to the island of Niue (an independent state freely associated with New Zealand) with false promises of well-paid work on an established farm, and eventual access to New Zealand. The government of New Zealand denied the migrants access to New Zealand and, as the government of Niue would not repatriate the migrants, New Zealand did so at the cost of USD 71,000 (NZD 35,500) and under the supervision of the IOM.

The government partnered with local bodies in New Zealand, typically regional councils, to provide support services to migrants and refugees, which would include potential trafficking victims. In 2008, the government contributed USD 2.95 million (NZD 5.9 million) toward those services.

-- D. Does the government assist foreign trafficking victims, for example, by providing temporary to permanent residency status, or other relief from deportation? If so, please explain.

RESPONSE:

The Department of Labour-Immigration is able to provide victims, including foreign trafficking victims, with immigration status appropriate to their situation. Immigration would assess a victim on

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a case-by-case basis and the victim would be eligible for a temporary permit. For example, the government has provided crime victims with temporary entry permits, including limited purpose entry permits (to testify in court, for example). In some cases relating to visa holders who are illegally engaged in the sex industry (and may be potential and unproven victims of trafficking), the violators are often allowed to remain in New Zealand subject to the terms of their visa. Likewise, illegal migrant farm workers who have been exploited (though not necessarily trafficked) are sometimes allowed to remain in the country.

-- E. Does the government provide longer-term shelter or housing benefits to victims or other resources to aid the victims in rebuilding their lives?

RESPONSE:

Please see the responses to "26-B" and "26-C" above.

-- F. Does the government have a referral process to transfer victims detained, arrested or placed in protective custody by law enforcement authorities to institutions that provide short- or



long-term care (either government or NGO-run)?

RESPONSE:

Depending on the status of the victim, he or she would be referred to the Department of Corrections (if detained) which has a range of social service and witness protection options available, or to an NGO (if not detained) such as the Women's Refuge, Victims Support, or Refugee Services.

-- G. What is the total number of trafficking victims identified during the reporting period? Of these, how many victims were referred to care facilities for assistance by law enforcement authorities during the reporting period? By social services officials? What is the number of victims assisted by government-funded assistance programs and those not funded by the government during the reporting period?

RESPONSE:

No transnational trafficking victims were identified during the reporting period. With respect to domestic victims, children engaged in prostitution were referred to Child and Protective Services or to parents. No numbers were available.

-- H. Do the government's law enforcement, immigration, and social services personnel have a formal system of proactively identifying victims of trafficking among high-risk persons with whom they come in contact (e.g., foreign persons arrested for prostitution or immigration violations)? For countries with legalized prostitution, does the government have a mechanism for screening for trafficking victims among persons involved in the legal/regulated commercial sex trade?

RESPONSE:

Please see the response to "27-B" below concerning the government's screening efforts to help detect potential trafficking victims among those seeking to enter New Zealand illegally.

Immigration officers have received training on anti-trafficking legislation and its implementation, including the necessity of providing victims with information on social services. The officers conduct interviews with potential victims and coordinate with the New Zealand Police and other social services agencies.

-- I. Are the rights of victims respected? Are trafficking victims detained or jailed? If so, for how long? Are victims fined? Are

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victims prosecuted for violations of other laws, such as those governing immigration or prostitution?

RESPONSE:

The government is conscientious about protecting the rights of crime victims, including potential trafficking victims. In any potential trafficking case, the government's policy is to try to obtain the victim's collaboration in prosecuting the person responsible, ensure that the victim's accommodation needs are met, and issue a temporary permit where appropriate to enable the victim to remain lawfully in New Zealand to serve as a legal witness if needed.

The Victims' Rights Act of 2002 provides specific statutory recognition to the role of victims in the criminal justice system. The Act provides that government officials in the criminal justice system should:

-- treat victims with courtesy, compassion, and respect for their personal dignity and privacy;

-- offer access to counseling and social services; and

-- inform victims and their families of the progress of the criminal proceedings, the charges laid, the victim's role as a prosecution witness, the date and place of certain events surrounding hearings,

and the final disposition of proceedings.

Under the Act, any information that should be given to the victim can be given to a support person when the victim cannot receive it or is not capable alone of understanding it.

When the government finds underage young persons engaged in prostitution, it considers them victims rather than criminals. The government has put in place measures to ensure that there are support services available for young persons who are involved in, or at risk of, commercial sexual exploitation.

As mentioned in "26-D" above, migrants who are illegally engaged in prostitution and illegal migrant farm workers who are potential trafficking victims may, on a case by case basis, be allowed to remain in New Zealand.

-- J. Does the government encourage victims to assist in the investigation and prosecution of trafficking? How many victims assisted in the investigation and prosecution of traffickers during the reporting period? May victims file civil suits or seek legal action against traffickers? Does anyone impede victim access to such legal redress? If a victim is a material witness in a court case against a former employer, is the victim permitted to obtain other employment or to leave the country pending trial proceedings? Are there means by which a victim may obtain restitution?

RESPONSE:

While no trafficking victims were detected during the reporting period, such victims would be handled under New Zealand's existing mechanism for assisting crime victims. If the government becomes aware of an instance of trafficking, it is government policy to solicit the cooperation of the victim so long as it would not jeopardize the success of the investigation. Although the government would have an interest in persuading the victim to remain in New Zealand, the government would not seek to prevent a victim of trafficking from leaving the country if the person desires to leave of her/his own volition.

Victims may use the judicial system to seek restitution against traffickers. In addition, following criminal prosecution of a trafficker, the court may order the trafficker to make reparation to the victim. The court is required by law to consider reparation in

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all criminal cases and it must impose reparation unless satisfied that it would result in undue hardship for the offender or the dependents of the offender, or because of any other special circumstances.

For example, in 2000 the Human Rights Commission successfully represented a Thai sex trafficking victim to the New Zealand Disputes Tribunal, and the victim recovered the NZD 6000 she paid traffickers for what she believed would be restaurant work.

-- K. Does the government provide any specialized training for government officials in identifying trafficking victims and in the provision of assistance to trafficked victims, including the special needs of trafficked children? Does the government provide training on protections and assistance to its embassies and consulates in foreign countries that are destination or transit countries? What is the number of trafficking victims assisted by the host country's embassies or consulates abroad during the reporting period? Please explain the type of assistance provided (travel documents, referrals to assistance, payment for transportation home).

RESPONSE:

Immigration officers receive training on anti-trafficking legislation and its implementation, including the necessity of providing victims with assistance and information on social services.

Representatives of the Department of Labour-Immigration and the Human Rights Commission have participated in and conducted numerous

training workshops in recognizing victims and perpetrators of trafficking. The government is an active participant in international fora concerning human trafficking, including the Bali Process and the Asia Pacific Forum of National Human Rights Institutions and others.

The Department of Labour-Immigration conducts border control training workshops and document examination training for the immigration and border control staff of countries in the Asia-Pacific region. Immigration also provides passenger screening training to staff of airlines serving New Zealand and the Pacific. (Please see the response to "25-F" above for more details concerning these training programs.)

Government diplomats assigned to countries where trafficking is likely to occur or where New Zealand works closely with other governments on trafficking (Bali Process countries, those working at the UN, or other relevant organizations such as IOM) receive a briefing on trafficking issues before departing for their assignment.

There were no trafficking victims who were New Zealand citizens and who were assisted by New Zealand's embassies or consulates abroad during the reporting period.

-- L. Does the government provide assistance, such as medical aid, shelter, or financial help, to its nationals who are repatriated as victims of trafficking?

RESPONSE:

No New Zealand nationals have been repatriated as trafficking victims during the reporting period. However, repatriated victims would be entitled to the services and programs available to all crime victims in New Zealand.

-- M. Which international organizations or NGOs, if any, work with trafficking victims? What type of services do they provide? What sort of cooperation do they receive from local authorities?

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RESPONSE:

Several NGOs are prepared to work with trafficking victims, both transnational and domestic. These NGOs include national/international organizations such as the Salvation Army, IOM, Save the Children, ECPAT, the New Zealand Prostitutes Collective, and Stop Demand; and local community organizations such as Mangere East Family Services Center, Iosis Family Solutions, and Shakti Community Council. These organizations offer a wide range of counseling, shelter and referral services. All of the organizations indicate a high level of cooperation by national and local governments.

With respect to underage prostitution, the Mangere East Family Services Center (MEFSC) in Auckland launched a new program in 2008. MEFSC partnered with the New Zealand Prostitutes Collective to establish a program called "Street Reach." This privately-funded program provides counseling services to prostitutes (especially younger sex workers) to help them deal with psychological and emotional problems that are associated with women who enter prostitution, and which are often caused by growing up in situations involving child abuse, family violence, alcoholism and dysfunctional families. The goal is to assist prostitutes in addressing those problems and thereby give up the profession.

NGOs have not reported any difficulties with or reluctance by the government in addressing trafficking issues. ECPAT, for example, praised MFAT and the police for their cooperation and leadership on trafficking and child-related issues.

127. PREVENTION:

-- A. Did the government conduct anti-trafficking information or

education campaigns during the reporting period? If so, briefly describe the campaign(s), including their objectives and effectiveness. Please provide the number of people reached by such awareness efforts, if available. Do these campaigns target potential trafficking victims and/or the demand for trafficking (e.g. "clients" of prostitutes or beneficiaries of forced labor)? (Note: This can be an especially noteworthy effort where prostitution is legal. End Note.)

RESPONSE:

There were no government-run anti-trafficking information and education campaigns specifically targeting transnational trafficking, underage prostitution or exploitation of migrant workers during the reporting period. However, the government is attempting to raise general awareness of trafficking issues as part of its Plan of Action process, which began in 2008 and is discussed in other sections of this report. That process has involved public consultations with NGOs and civil society, and has resulted in the publication of the Plan of Action's purpose and progress on the Department of Labour-Immigration web site.

-- B. Does the government monitor immigration and emigration patterns for evidence of trafficking? Do law enforcement agencies screen for potential trafficking victims along borders?

RESPONSE:

The government regularly monitors immigration and emigration patterns and conducts onshore and off-shore passenger screening as an integral element of detecting and preventing trafficking. The Government has in place an Advance Passenger Processing (APP) system that requires airlines to identify passengers who may be seeking to enter New Zealand illegally before they embark on an aircraft.

In countries that are considered to be a high-risk source of

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trafficked victims and where a visa is required to travel to New Zealand (Taiwan, Thailand and mainland China), New Zealand immigration officials focus special attention on detection of trafficking during the visa approval process. Immigration officials also coordinate with Australian immigration officials, who have the same concerns in their country.

In countries that are considered to be a high-risk source of trafficked victims but where a visa is not required to travel to New Zealand (such as Hong Kong and Malaysia), immigration officials rely on APP to help target likely trafficking victims for special scrutiny.

New Zealand also participates in the APEC Regional Movement Alert System (RMAS) which allows the automated checking of passport details (of those countries participating in RMAS) to detect invalid, lost and stolen passports.

In January, the Customs Service and the Department of Labour-Immigration launched a passenger profiling initiative called Operation Spotlight at New Zealand's main international gateway, Auckland International Airport, to interdict visa-free travelers entering New Zealand who may have the intent of working illegally in the sex industry. Passengers are targeted both remotely (while en route to NZ, based on their ticketing profile) and at the physical border via traditional face-to-face methods. Passengers that match the alert profile at the primary line are referred by Customs to secondary questioning by Immigration. Several incoming passengers were denied entry during the program's trial phase in 2008.

Immigration also works closely with the New Zealand Customs Service in the National Targeting Centre to develop passenger profiles and prepare alerts against passengers of interest at the airport entry points.

The Immigration Border Operations Centre (IBOC) monitors passengers using two systems. The first is the Advanced Passenger Profiling (APP) system. APP is linked to both the airline check-in system and

to the Department of Labour-Immigration database. If there is a passenger alert on the database, an alert is transmitted to APP that instructs airlines to not board the passenger. As a result of APP, 1347 passengers were offloaded before embarking for New Zealand between January 1, 2008 and December 31, 2008.

The second system used by IBOC is the Risk Targeting Program (RTP), which uses electronic passenger profiling. This system targets people who are potentially travelling with false passports. RTP refers a significant number of individuals to Onshore Border Operations for investigation upon arrival (individuals who fit a sex worker profile is one example). Onshore Border Operations then conduct face-to-face interviews with the individuals referred by RTP.

To date, no trafficking cases have been identified through either system of offshore border profiling.

-- C. Is there a mechanism for coordination and communication between various agencies, internal, international, and multilateral on trafficking-related matters, such as a multi-agency working group or a task force?

RESPONSE:

At the domestic level:

As mentioned in "24-D" above and "27-D" below, the government's Plan of Action to combat trafficking established an Inter-agency Working Group (IWG) on People Trafficking, that includes the Department of Labour-Immigration, the Police, the Customs Service, the Ministry of Foreign Affairs and Trade, the Ministry of Justice, the Ministry of

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Social Development, the Ministry of Health, and the Ministry of Women's Affairs.

The Customs Service has a formal Memorandum of Understanding with the Police that covers information sharing, joint operations and joint training opportunities, which includes trafficking-related issues. The Department of Labour-Immigration has a similar arrangement with the Police.

At the international level:

-- The government's efforts to prevent trafficking are reported and coordinated within the Bali Process and at relevant UN meetings (New Zealand hosted the Bali Process steering group meeting in November 2008);

-- The government participates in the Pacific Regional Immigration Identity Project (PRIIP) with Palau, Kiribati, the Cook Islands and Samoa to improve identity management services and better detect, measure, investigate and prevent the use of identity fraud (especially immigration identity fraud and thereby trafficking) within the Pacific region;

-- The government is a member of the International Organization for Migration (IOM) and consults with the IOM in developing and implementing New Zealand's National Plan of Action to prevent trafficking in persons; and

-- The government is a member of the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), a forum that meets to exchange information, practical approaches, and policy debate on issues relevant to the management of migratory flows (to include trafficking).

-- D. Does the government have a national plan of action to address trafficking in persons? If the plan was developed during the reporting period, which agencies were involved in developing it? Were NGOs consulted in the process? What steps has the government taken to implement the action plan?

RESPONSE:

In June 2008, the government released its Plan of Action to address trafficking prevention, victim protection, prosecution of traffickers, and victim reintegration. The agencies involved in developing the Plan of Action were part of an Inter-agency Working Group (IWG) on People Trafficking that included the Department of Labour-Immigration, the Police, the Customs Service, the Ministry of Foreign Affairs and Trade, the Ministry of Justice, the Ministry of Social Development, the Ministry of Health, and the Ministry of Women's Affairs. The IWG continues to implement, coordinate and monitor the Plan of Action.

Upon release of the Plan of Action, the government initiated a consultation process wherein it conducted three public "consultations" in June and July in New Zealand's three largest cities -- Auckland, Wellington, and Christchurch -- to solicit civil society and NGO input for additional action. Approximately 30 NGOs actively participated in the process. The government, through regular meetings of the IWG, is continuing to develop, fine tune and look for opportunities to expand the Plan of Action.

Thus far under the Plan of Action, the NZ Department of Labor-Immigration has undertaken anti-trafficking enhancements that include:

- Briefing and debriefing all compliance officers on indicators of trafficking activity before and after each field operation;
- An intelligence collection plan incorporated into each compliance operation; and
- Monitoring of open sources and classified reporting for

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trafficking intelligence and trends.

The Department of Labour also has the following initiatives under development:

- Efforts to raise trafficking awareness for the wider departmental staff, including management communications and the delivery of presentations by branch managers;
- Development of modular style legal and practical lessons for staff, to be designed in conjunction with New Zealand Police based on an existing Police template that will be modified to meet department needs; and
- Collaboration with Police to identify various structures and agreements that need to be formalized -- e.g., a standardized referral process when a victim of suspected trafficking is identified.

Other initiatives being considered include a public awareness campaign and formalized visa arrangements for identified trafficking victims.

One goal of the Department is to "mainstream" anti-trafficking efforts into existing practices. This is intended to increase awareness of trafficking prevention among Department staff at all levels -- particularly offshore visa officers, border security officers, compliance officers and labor and health inspectors.

-- E: What measures has the government taken during the reporting period to reduce the demand for commercial sex acts? (see ref B, para. 9(3) for examples)

RESPONSE:

With the adoption of the PRA in 2003, the government's purpose was to reduce the demand for, and improve the government's ability to detect and prevent, underage prostitution and the exploitation of foreign nationals who may be trafficked into prostitution. In addition, the government attempted to promote the human rights, welfare, and occupational health and safety of sex workers.

The PRA also established the Prostitution Law Review Committee (PLRC) to monitor the operation of the PRA and its impact on the sex industry. One of the PLRC's functions is to assess the adequacy of, and recommend improvements to, programs to assist persons in avoiding or ceasing work in the sex industry.

-- F. Required of all Posts: What measures has the government taken during the reporting period to reduce the participation in

international child sex tourism by nationals of the country?

RESPONSE:

During the reporting period, no new measures were undertaken. However, the government remains ready to prosecute its citizens under New Zealand law for acts of child sex tourism while abroad.

New Zealand has extraterritorial coverage under section 144A of the Crimes Act of 1961 with respect to child sexual abuse laws and New Zealand has cooperated in the prosecution of New Zealand citizens who have engaged in child sex tourism overseas. It is also an offense under section 144C of the Crimes Act of 1961 to organize or promote child sex tours.

The government featured information on New Zealand's extraterritorial child sex tourism legislation on the government travel advisory website.

In addition, the Police Department of Internal Affairs' Censorship Compliance Unit actively investigated cases of child pornography and images of child sex abuse on the Internet, and prosecuted offenders.

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-- G. Required of posts in countries that have contributed over 100 troops to international peacekeeping efforts: What measures has the government adopted to ensure that its nationals who are deployed abroad as part of a peacekeeping or other similar mission do not engage in or facilitate severe forms of trafficking or exploit victims of such trafficking? If posts do not provide an answer to this question, the Department may consider including a statement in the country assessment to the effect that "An assessment regarding Country X's efforts to ensure that its troops deployed abroad for international peacekeeping missions do not engage in or facilitate trafficking or exploit trafficking victims was unavailable for this reporting period."

RESPONSE:

Personnel of the New Zealand Defence Force (NZDF) are obligated to comply with the NZDF Code of Conduct. A Code of Conduct card is issued to each member of the NZDF, containing a summary of the Laws of Armed Conflict, which incorporates the requirement to: "Treat all Civilians and persons deprived of their liberty humanely, protect them from abuse, and respect their property."

In the event that evidence of such activity would be discovered, the government would treat that activity as a crime under New Zealand law. The NZDF Discipline Act of 1971 makes all offences under NZ Law applicable to members of the NZDF, wherever they may be assigned.

Prior to deployment into mission areas, all NZDF personnel undergo pre-deployment training to prepare the service member for operations in the specific mission area. This training includes briefings on cultural and legal issues. It is government policy that if NZDF personnel are entering an area known for trafficking, then specific in-theatre briefings would occur on deployment.

End Responses

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12. (U) Embassy POC for trafficking in persons issues is Political Officer Gary Rex: telephone 0064-4-462-6043; fax 0064-4-472-3537; RexGL@state.gov.

13. (U) Post estimates that Rex spent 50 hours in preparation of this TIP report response cable.

KEEGAN